ORIGINAL

PROPOSED ORDER OF AMERITECH ILLINOIS
version #1 (to be used in event the petition for arbitration is dismissed on the ground that SCC is not a telecommunications carrier)

Before the
ILLINOIS COMMERCE COMMISSION

In the Matter of the Petition of SCC Communications Corp. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with SBC Communications Inc.	))))))	Docket No. 00-0769

PROPOSED ORDER

By the Commission:

I. Introduction and Procedural Background

On December 5, 2000, SCC Communications Corporation ("SCC") filed a Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to establish an interconnection agreement with Illinois Bell Telephone Company d/b/a Ameritech Illinois ("Ameritech Illinois"). The Petition identified 50 unresolved issues and stated SCC's position with respect to those issues. On January 2, 2001, Ameritech Illinois filed its Response to the Petition, setting forth its positions on the issues identified by SCC and identifying six additional arbitration issues.

On December 14, 2000, Hearing Examiners Terrence Hilliard, Leslie Haynes and Claudia Sainsot held a pre-hearing conference. As a result of that conference, the Hearing Examiners set a schedule for party filings and continued the hearings to January 26 and 29, 2001.

On December 15, 2000, Ameritech Illinois filed its Motion to Dismiss Petition for Arbitration. SCC and Staff filed responses to Ameritech Illinois's motion on December 22. At a status hearing held December 28, 2000, the Hearing Examiners denied the motion.

On December 21, 2000, Ameritech Illinois filed a Motion to Strike Portions of the Petition as well as its Petition for Interlocutory Review of Denial of Motion to Hold Proceedings in Abeyance. SCC filed its response to the petition for interlocutory review on December 29, and its response to the motion to strike on January 4, 2001. On January 10, 2001, the Commission denied Ameritech Illinois's petition for interlocutory review. On January 11, the Hearing Examiners granted Ameritech Illinois's motion to strike.

On January 8, 2001, Ameritech Illinois filed a Petition for Interlocutory Review of the Denial of Motion to Dismiss the Petition for Arbitration. On January 12, Ameritech Illinois withdrew without prejudice this petition for interlocutory review. That same day, at the request of Ameritech Illinois and SCC, a revised schedule for the proceeding was adopted. SCC filed an Amended Petition for Arbitration on January 25, 2001.

SCC filed the verified statement of Cynthia Clugy on December 19, 2000, and Ameritech Illinois submitted verified statements of Daniel L. Colin, Bryan Gonterman, Thomas J. Latino, Mark Novack, Michael D. Silver, and Rita Zaccardelli on January 4, 2001. On January 29 and 31, 2001, Staff of the Illinois Commerce Commission filed the verified statements of its witnesses addressing SCC issue numbers 1.K, 4 and Ameritech Illinois issue numbers 1, 2 and 6. Ameritech Illinois and SCC filed supplemental verified statements on February 2, 2001, along with an updated issues matrix.

An evidentiary hearing on unresolved issues was held in Chicago, Illinois on February 5, 2001. At the conclusion of the hearing, the Hearing Examiners approved a briefing schedule which provided for the filing of simultaneous briefs on unresolved issues, including Ameritech Illinois's arguments in favor of dismissal, on February 9, 2001, with reply briefs (limited to answering Ameritech Illinois's arguments in favor of dismissal) due February 16, 2001. The record was then marked "Heard and Taken."

II. Analysis

The dispositive question in this proceeding is not any of the issues set forth by SCC Communications Corp ("SCC") in its arbitration petition ("Petition"), of which only a handful remain. Rather, it is whether the Telecommunications Act of 1996 ("1996 Act" or "Act") entitles SCC to arbitration or to an interconnection agreement at all.

Ameritech Illinois Position

Ameritech Illinois contends that SCC is not a telecommunications carrier as the 1996 Act defines that term, and therefore is entitled neither to arbitration under section 252 of the Act nor to an agreement with Ameritech Illinois that conforms with the substantive requirements in section 251 of the Act. As Ameritech Illinois points out, SCC itself has admitted that it is not a telecommunications carrier, and has contended that the 1996 Act does not apply to SCC for that very reason. Accordingly, Ameritech Illinois maintains, SCC's Petition should be denied, and the Commission should reach none of the issues that have been raised in this proceeding.

SCC Position

SCC contends that it is a telecommunications carrier, primarily on the ground that it has recently applied for and received certificates of service authority.

Staff Position

Staff supports SCC's position.

Commission Analysis and Conclusion

It is clear from the face of the 1996 Act that, as this Commission held, the entities to which sections 251 and 252 of the Act apply are "telecommunications carriers." For example:

- The incumbent local exchange carrier's duty to negotiate an interconnection agreement under the Act runs to "[t]he requesting *telecommunications carrier*." 47 U.S.C. § 251(c)(1) (emphasis added).

- The interconnection that the incumbent carrier must provide is "for the facilities and equipment of any requesting *telecommunications carrier*." 47 U.S.C. § 251(c)(2) (emphasis added).

- Unbundled access to network elements must be provided only to "any requesting *telecommunications carrier*." 47 U.S.C. § 251(c)(3) (emphasis added).

This repeated use of the words "telecommunications carrier" must be given meaning. The statute cannot be applied as if Congress said "person" or "entity" instead of "telecommunications carrier." Rather, as the Commission held in its Order in 97 AB-001, at page 4, "it is critical to the arbitration process that [the Petitioner] stand as a telecommunications carrier under the 1996 Act," and it is a "threshold requirement" of the Act (id. at 5) that the petitioner be a "telecommunications carrier."

The dispositive question, then, is a factual one: Is SCC a telecommunications carrier? SCC answered that question in a brief it filed on February 12, 1999, in the Public Utility Commission of Texas. In that brief, SCC admitted:

> § 251(c)(2) of the FTA [federal telecommunications act] does not require SWBT to provide SCC unbundled access . . . because . . . ***SCC is not a telecommunications carrier***." (Am. Ill. Attachment 1 at 3) (emphasis added).[1]

In that same brief, SCC acknowledged that it has no entitlements under the 1996 Act. As SCC succinctly put it:

The provisions governing interconnection under the FTA are *inapplicable to SCC*. *Id.* at 13. And this, SCC explained, is because SCC is not a telecommunications carrier:

> Section 251(c) requires LECs to interconnect with any requesting telecommunications carrier. Section 3(44) of the FTA defines a "telecommunications carrier" as "any provider of telecommunications services, except that such term does not include aggregators . . . (as defined in section 226)." "Telecommunications service" is defined in § 3(46) to mean "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." The term "telecommunications" is defined in § 3(43) as "the

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[1] SWBT is Southwestern Bell Telephone Company, Ameritech Illinois' sister company in Texas.

> transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received." SCC's database management activities do not fit within this definition.
>
> *Thus, looking to the FTA in order to determine the extent of SWBT's obligations to [SCC] is simply wrong.*

Id. at 13 (emphasis added).

SCC, having taken the position in the clearest possible terms that it is not a telecommunications carrier under the 1996 Act, and that a State commission therefore cannot look to the 1996 Act to determine an incumbent carrier's obligations to SCC, cannot shed that position like an old shoe when it no longer fits SCC's purposes. *See, e.g., Illinois v. Coffin*, 305 Ill. App. 3d 595, 598, 712 N.E.2d 909, 911 (1st Dist. 1999) ("The doctrine of judicial estoppel provides that when a party assumes a certain position in a legal proceeding, that party is estopped from assuming a contrary position in a subsequent legal proceeding"); *The New England Employee Benefits Group v. Klapperich*, 2000 U.S. Dist LEXIS 16545, at *9 n.2 (N.D. Ill. Oct. 26, 2000) ("Judicial estoppel prevents a party that has taken one position in litigating a particular set of facts from later reversing that position to her advantage"). This doctrine "is designed to promote the truth and to protect the integrity of the . . . system by preventing litigants from deliberately shifting positions to suit the exigencies of the moment." *J & R Carrozza Plumbing Co. v. Industrial Comm. of Illinois*, 307 Ill. App. 3d 220, 225-26, 717 N.E. 2d. 438, 442 (1st Dist. 1999) (Rarick, J., concurring).

In light of SCC's failure to offer any explanation here for what it told the Texas Commission, and for having "deliberately shift[ed] positions to suit the exigencies of the moment" (*J & R Carrozza Plumbing, supra*), the Commission finds that SCC should be bound to its previous position that it is not a telecommunications carrier. That alone is a sufficient ground to dismiss SCC's Petition.

Even apart from SCC's binding admission, the Commission finds that SCC it is not a telecommunications carrier as the 1996 Act defines that term. Section 3(44) of the Act defines "telecommunications carrier":

> Telecommunications carrier.—The term "telecommunications carrier" means any provider of telecommunications services . . . .

Then, section 3(46) defines "telecommunications service":

> Telecommunications service.—The term "telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public . . . .

Finally, section 3(43) defines "telecommunications":

> Telecommunications.—The term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's

choosing, without change in the form or content of the information as sent and received.

Putting these definitions together, SCC would be a "telecommunications carrier" entitled to arbitration under the Act if, and only if, it offered telecommunications service, as defined in section 3(43), for a fee *directly to the public*, or to such classes of users as to be effectively available directly to the public.

The Commission finds, based on the record, that SCC does not offer services directly to the public. Rather, the record shows that SCC offers its services to telecommunications carriers. SCC's Texas admissions that it is not a telecommunications carrier are fully corroborated by SCC's Petition in this proceeding and by SCC's recent public declarations about its business, including declarations SCC made to this Commission just last fall.

According to SCC's Petition (at 3-4):

> SCC provides telecommunications services that facilitate, enhance, and advance the provision of emergency services . . . to end users of wireline, wireless, and telematics (*e.g.*, On Star and Automatic Crash Notification) service providers. Specifically, SCC aggregates and transports such traditional and nontraditional emergency call traffic from multiple service providers to appropriate Selective Routing Tandems where such traffic is then transported to the Public Safety Answering Points. ('PSAP'). . . . Aggregating emergency call traffic reduces the number of facilities that must interconnect with the incumbent local exchange carriers' ("ILECs'") Selective Routing Tandems, resulting in a more efficient use of the telecommunications network. Such aggregation also reduces the ILEC's administrative responsibilities: rather than coordinate and interconnect with multiple service providers individually, the ILEC need only coordinate and interconnect with SCC in order to handle the emergency call traffic from multiple service providers. In addition, SCC offers its service provider customers and the interconnecting ILEC assurance that emergency call traffic will be passed to the ILEC's Selective Routing Tandems through redundant, self-healing facilities provided by SCC.
>
> Not only will SCC provide efficient and reliable transport of emergency call traffic, but SCC also offers state-of-the-art database management services through its 9-1-1 SafetyNet[SM] product offering.

That passage makes clear that SCC provides services to its "service provider customers," *not* directly to the public or to such classes of users as to be effectively available directly to the public. Moreover, SCC's descriptions of itself and its business in other public documents confirm that SCC does not provide telecommunications directly to the public. Merely by way of example:

- On its website, SCC repeatedly identifies its customers as "Incumbent Local Exchange Carriers (ILECs), Competitive Local Exchange Carriers (CLECs), Integrated Communications Providers (ICPs) and Wireless

Carriers" who can "outsource their 9-1-1 management requirements to us." (Am. Ill. Post-hearing Br., Attachment 2, first page.) (*See also id.*, second page.) SCC does not provide its services directly to the public.

- In its September 14, 2000, Application for Certificate to Become a Telecommunications Carrier in Illinois ("Application") (Attachment 3 hereto), SCC acknowledged, "SCC does not have any end-user telephone subscribers." *Id.* at 8, 9. Rather, "As an agent for incumbent local exchange carriers, competitive local exchange carriers, integrated communications providers, and wireless carriers, SCC provides database management services nationwide." (*Id.* at 3.)

Services offered to telecommunications carriers are, quite plainly, not offered "directly to the public," nor are they "effectively available directly to the public" (*i.e.*, SCC's customers' customers). In *AT&T Submarine Systems, Inc.*, 13 F.C.C.R. 21,585 (rel. Oct. 9, 1998), the FCC was called on to determine whether a company called AT&T-SSI was or was not a telecommunications carrier under the 1996 Act. A party named Vitelco argued that AT&T-SSI was a telecommunications carrier, on the theory that "because AT&T-SSI sells . . . to common carriers or consortia of common carriers who sell telecommunications services directly to the public, AT&T-SSI provides a telecommunications service that is 'effectively available directly to the public.'" *Id.* ¶ 5. The FCC rejected Vitelco's argument. The FCC held, "We disagree with Vitelco that the activities of AT&T-SSI's customers are relevant to a determination whether AT&T-SSI is a telecommunications carrier. . . . As the Commission has previously held, the term 'telecommunications carrier' means essentially the same as common carrier. It does not . . . introduce a new concept whereby we must look to the customers' customers to determine the status of a carrier." *Id.* ¶ 6. The United States Court of Appeals for the District of Columbia Circuit affirmed the FCC's decision. *Virgin Islands Tel. Corp. v.* FCC, 193 F.3d 921 (D.C. Cir. 1999).

The closest that SCC has come to offering any evidence to support its position was to cite to two State commission certifications, one from Illinois and one from Texas, authorizing SCC to provide certain services. Those certifications, however, are not evidence that SCC is a telecommunications carrier under the 1996 Act. As this Commission has held, "the 'telecommunications carrier' requirement is different from the question of 'certification.'" (Order in Docket 97 AB-001, at 5.) And indeed, the two certification orders to which SCC has cited include nothing that suggests SCC is a telecommunications carrier under the 1996 Act.

The Illinois Certification Order merely certifies SCC to provide certain services *under Illinois law*. It specifically notes that SCC's request was to obtain certificates of service authority, and that SCC sought to become (in the future) a telecommunications carrier "within the meaning of Section 13-202 of the Illinois Public Utilities Act." Nothing in the Order remotely suggests that SCC is or will be a telecommunications carrier under the 1996 Act, or even that SCC will in fact do what the Commission has certified it to do. Thus – and especially in light of this Commission's explicit recognition in 97 AB-001 that the telecommunications carrier requirement of the 1996 Act is different from the question of certification under Illinois law – the Illinois Order offers no support for SCC's claim that it is a telecommunications carrier under the 1996 Act.

The Texas Certification Order:

- concludes (at part II, ¶ 1) that SCC is a telecommunications provider under Texas law, but nowhere suggests SCC is a telecommunications carrier under the 1996 Act; and

- states (at part I, ¶ 22) that the Applicant's Request indicates "*The Applicant [SCC] has never provided telecommunications services in Texas or any other state.*" (Emphasis added.)

SCC next contends that the service that SCC provides and that it wants this Commission to conclude is a "telecommunications service" is "selective routing database management services." According to SCC, selective routing database management services are telecommunications services because, as SCC has argued, paragraph 18 of the FCC's *Forbearance Order*[2] holds that "selective routing database management is an adjunct service that falls into the 'telecommunications management exception' to the definition of 'information service.'" The *Forbearance Order* holds no such thing, either at paragraph 18 or elsewhere.

In paragraph 18 of the *Forbearance Order*, the FCC addressed an argument by an incumbent LEC (U S West) that its "storage and retrieval of the information that emergency service personnel use to respond to E911 calls fall within the 'telecommunications management exception' because those functions are adjunct services . . . ." The FCC held, "We reject th[is] argument[]." *Id.* As the FCC went on to explain,

> Although the "telecommunications management exception" encompasses adjunct services, the storage and retrieval functions associated with the . . . automatic location identification databases provide information that is useful to end users, rather than carriers. As a consequence, *those functions are not adjunct services and* ***cannot*** *be classified as telecommunications services on that basis.*

Id. (emphasis added and footnotes omitted). SCC's contention that the FCC held that selective routing database management is a telecommunications service is transparently wrong on two counts, both of which are apparent on the face of paragraph 18. *First*, there is no mention in paragraph 18 (or anywhere else in the *Forbearance Order*) of selective routing database management. *Second*, the only thing that the FCC held in paragraph 18 was that certain database functions are *not* adjunct services, and so *cannot* be classified as telecommunications services. Thus, the *Forbearance Order* plainly does not hold what SCC says it holds, and SCC is left with no support for its claim that it is a telecommunications carrier because it provides selective routing database management. Rather, the state of affairs is exactly as it was when SCC made the following argument to the Public Utilities Commission of Texas based in part on the *Forbearance Order* – a radically different argument than SCC makes here:

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[2] *Bell Operating Companies Petitions for Forbearance from Application of Section 272 of the Communications Act of 1934, as Amended, to Certain Activities*, CC Docket No. 96-149, Memorandum Opinion and Order, 13 FCC Rcd 2627, 2638 (1998).

Under federal law, telecommunications services and information services are two distinct services,[16] and E9-1-1 services are information services.[17]

16 *Compare* 47 U.S.C. § 153(46) (defining "telecommunications service") *with* 47 U.S.C. § 153(20) (defining "information service").

17 *Forbearance Order*, ¶¶ 17-19.

Am. Ill. Post-hearing Br. attachment 1, at 8 (footnotes in original).

Based on the record in this proceeding, SCC's customers are incumbent local exchange carriers, competitive local exchange carriers, integrated communications providers and wireless carriers, *not* end users of any telecommunications service. There is no support in the record for the proposition that SCC provides any telecommunications service directly to the public, and therefore no basis for a conclusion that SCC is a telecommunications carrier under the 1996 Act.

There is yet another reason that SCC's Petition should be denied: While SCC claims to be seeking interconnection under the 1996 Act, what SCC is seeking is in fact not interconnection as that term is defined in the 1996 Act.

SCC states (at page 5 of its Petition):

> In order to provide the aforementioned aggregation, transport, and database management services, SCC must interconnect its network with the ILECs that have connections with and provide 9-1-1 services to the PSAPs. Thus, *pursuant to the Act, SCC seeks to interconnect its network with SBC's network* at every SBC Selective Routing Tandem in SBC's operating territories. *SCC seeks to interconnect with SBC's Selective Routing Tandems*, just as other competitive carriers do to provide their end users with emergency services. In addition, *SCC seeks to interconnect its ALI nodes with SBC's ALI nodes* (*i.e.*, ALI Steering or Dynamic ALI Updates) so that PSAPs can access location information of the end users of wireless and telematics service providers where such information resides in SCC's ALI nodes. (Emphasis added.)

Thus, SCC claims that what it is seeking is interconnection under the 1996 Act. Under the 1996 Act, however, interconnection is, by definition, "for the transmission and routing of *telephone exchange service* and *exchange access*." 47 U.S.C. § 251(c)(2)(A) (emphasis added). SCC does not provide – and has no intention to provide – telephone exchange service or exchange access. In the Texas brief referred to above, SCC admitted that it does not (and cannot) interconnect under section 251(c)(2) of the Act. SCC said, "The provisions governing interconnection under the FTA are inapplicable to SCC; therefore, SCC does not seek to 'interconnect' under § 251(c)." (Am. Ill. Post-hearing Br. attachment 1, at 13.) *See also id.* at 4 ("SCC is not claiming rights to interconnect under § 251 of the FTA").

In its Illinois Application, SCC repeatedly stated (*e.g.*, at pages 1, 2 and 4) that it does not provide long distance toll services or local exchange dial tone services and does not intend to provide such services *and* that SCC "does not own, operate or maintain any local access lines" (*id.* at 8, 9). Thus, SCC does not provide, and by its own declaration will not provide, telephone

exchange service or exchange access in Illinois. From that it necessarily follows that SCC is not seeking interconnection under the 1996 Act, and therefore that SCC is not entitled to arbitration under the 1996 Act.

SCC has not disputed the proposition that it is not entitled to arbitration unless it is seeking interconnection "for the transmission and routing of telephone exchange service and exchange access," nor did it dispute the fact that it does not provide exchange access. SCC has argued, however, that it provides telephone exchange service. SCC's argument fails, for several reasons:

First, SCC told the Texas Commission that the interconnection provisions of the 1996 Act are inapplicable to SCC, and that SCC does not claim the right to interconnect under section 251 of the 1996 Act. (Attachment 1, at 13.) SCC ignores these fatal admissions, just as it ignores its admissions that it is not a telecommunications carrier, apparently in the hope that this Commission will ignore them as well. The Commission should hold SCC to its admission that it is not entitled to interconnection under section 251(c)(2) of the 1996 Act for the same reasons that it should hold SCC to its admissions that it is not a telecommunications carrier.

Second, SCC told this Commission in Docket 00-0606 that SCC "does not provide . . . local exchange service" (*see* December 20, 2000, Order in Docket 00-0606 (Attachment 4 hereto), at 2), and this Commission evidently relied on that representation in waiving legal requirements that would otherwise apply to SCC. *Id.* SCC's representation in Docket 00-0606 that it does not provide local exchange service was, it appears from the Commission's Order, not qualified or limited in any way. SCC is therefore judicially estopped from asserting in this proceeding that it provides telephone exchange service.

Third, SCC has offered no *evidence* to support any assertion it makes in support of its claim that it provides telephone exchange service.

Fourth, SCC's citations to FCC determinations that telephone exchange service is not limited to traditional local telephone service lead nowhere. To be sure, the FCC has recognized as "telephone exchange service" certain services that are not traditional local telephone services, but that does not mean that anything and everything is telephone exchange service. Rather, one must look at the rationale for the FCC's determination and see whether it applies here. In holding that Commercial Mobile Radio Service ("CMRS") companies provide telephone exchange service, the FCC reasoned:

> [C]ellular, broadband PCS, and covered SMR providers fall within the second part of the definition [of "telephone exchange service"] because they provide "comparable service" to telephone exchange service. The services offered by cellular, broadband PCS, and covered SMR providers are comparable because, as a general matter, . . . these CMRS carriers provide local two-way switched voice service as a principal part of their business. . . . In addition, the fact that most CMRS providers are capable . . . of providing fixed services . . . buttresses our conclusion that these CMRS providers offer services that are "comparable" to telephone exchange service and supports the notion that these services may

become a true economic substitute for wireline local exchange service in the future.

First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 (rel. Aug. 8, 1996), ¶ 1013.

Obviously, the FCC was not saying that anything and everything is a telephone exchange service. Rather, it reasoned that the service provided by CMRS carriers is telephone exchange service because the carriers provide "local two-way switched voice service as a principal part of their business" and because their service "may become a true economic substitute for wireline local exchange service in the future." SCC does not claim, and cannot claim, that that is true for any service that it provides.

Finally, in order to qualify as "telephone exchange service" under the 1996 Act, a service "must permit 'intercommunication' among subscribers within the equivalent of a local exchange." Order on Remand (FCC 99-413), *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, 15 FCC Rcd. 385 (rel. Dec. 23, 1999), ¶ 23. There is no indication in the record that any service offered by SCC permits such *intercommunication among subscribers.*

In sum, SCC has offered literally no evidence of the facts that it wants this Commission to accept as the basis for a conclusion that SCC is entitled to arbitration under the 1996 Act. and the Commission cannot properly find, based on the record, that SCC is a telecommunications carrier under the 1996 Act. Thus, the law is clear and the facts are clear: The only entities that are entitled to arbitration under the 1996 Act, as this Commission held in Docket 97 AB-001, are telecommunications carriers. SCC is not a telecommunications carrier. It has said in so many words that it is not a telecommunications carrier, and the evidence shows it is not a telecommunications carrier, as the 1996 Act defines that term, because it does not provide telecommunications directly to the public. SCC therefore is not entitled to arbitration under the 1996 Act, and the Commission finds that SCC's Petition must therefore be dismissed.

III. Findings and Ordering Paragraphs

Upon due consideration of the entire record herein, the Commission hereby finds that:

(1) Illinois Bell Telephone Company d/b/a Ameritech Illinois is a telecommunications carrier certificated to provide local exchange and intra-MSA services in Illinois;

(2) SCC Communications Corporation holds certificates of service authority pursuant to 220 ILCS 5/13-403, 13-404, and 13-405, but is not a "telecommunications carrier" as that term is defined by the Telecommunications Act of 1996;

(3) Accordingly, the Commission lacks jurisdiction over the subject matter of SCC's purported Petition for Arbitration Pursuant to Section 252(b) of the Act;

(4) The facts recited and conclusions reached in the prefatory sections of this Order are supported by substantial evidence in the record and are hereby adopted as findings of fact and conclusions of law;

(5) The Petition for Arbitration by SCC should be dismissed for the reasons set forth above.

IT IS THEREFORE ORDERED that SCC's Petition for Arbitration in this proceeding is hereby dismissed.

IT IS FURTHER ORDERED that any petitions, objections or motions made in this proceeding that have not been specifically ruled upon are hereby disposed of in a manner consistent with the conclusions contained herein.

By written decision of the Hearing Examiners this ___ day of February, 2001.

Tendered: February 13, 2001

Respectfully submitted,

AMERITECH ILLINOIS

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CERTIFICATE OF SERVICE

I certify that I caused copies of the foregoing Ameritech Illinois' Proposed Orders to be served on this 13th day of February, 2001, on the following persons by overnight delivery:

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